



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 2413-99

10 December 1999

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 12 April 1988 at age 20. The record shows that on 7 September 1990 you were evaluated by a medical officer following several alcohol related offenses. The evaluation notes that you were confined in the brig after being an unauthorized absentee while on restriction. The medical officer found that you were an alcohol abuser and recommended outpatient counseling.

On 25 September 1990 you were convicted by a summary court-martial of three periods of unauthorized absence totaling about four days, four absences from your appointed place of duty and two instances of disobedience. The court sentenced you to reduction to pay grade E-1, forfeiture of \$350 pay and 30 days confinement at hard labor. On 24 October 1990 you received nonjudicial punishment for five instances of unauthorized absence totaling about three days.

On 10 January 1991 a counseling and assistance center (CAAC) informed your command that you were being terminated from the

Level II rehabilitation program because you were an hour late on the second day of treatment, and admitted that you had continued to use alcohol and had no intention of stopping. CAAC concluded that you clearly understood that drinking while attending Level II could result in termination from the program.

On 8 March 1991 you were notified of separation processing due to commission of a serious offense and alcohol abuse rehabilitation failure. In connection with this processing you elected to waive your right to have your case heard by an administrative discharge board. On 13 March 1999 you were again evaluated by a medical officer and were found to be alcohol dependent. It was recommended that you attend a Level III rehabilitation program with the Department of Veterans Affairs (DVA) prior to discharge. On 18 March 1991 you elected to decline treatment for alcohol dependence at a DVA hospital. On 15 May 1991 the discharge authority approved the recommendation of your commanding officer that you be discharged for misconduct with a discharge under other than honorable conditions. You were so discharged on 24 May 1991.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your youth, alcohol dependence, and the documentation you submitted showing that you have been a good citizen since discharge. The Board found that these factors were not sufficient to warrant recharacterization of your discharge or to change the reason for discharge given your record of multiple offenses. The Board was aware that regulations state that alcohol abuse is not an excuse for misconduct and disciplinary action is appropriate following alcohol related misconduct. In addition, the regulations do not preclude discharge under other than honorable conditions for individuals found to be alcohol dependent, but only require that the individual be offered treatment prior to discharge. The record shows that you declined treatment when it was offered. The Board concluded that the discharge and reason for discharge were proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval

record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director